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August 25, 2016

Via Email (harborcomments@epa.gov)
Via U.S. Mail

ATTN: Portland Harbor Comments
U.S. Environmental Protection Agency
805 SW Broadway, Suite 500
Portland, OR 97205

Dear Sir or Madam:

Enclosed please find four comments regarding EPA's June 2016 Proposed Plan for Portland Harbor, prepared by SLR International Corporation on behalf of Langley St. Johns, LLC. Additional explanation and details supporting the provided comments are provided immediately below each comment in this document.

Sincerely,
SLR International Corporation

A handwritten signature in blue ink that reads "R. Scott Miller". The signature is fluid and cursive, with the first name "R." and last name "Miller" clearly legible.

R. Scott Miller, P.E.
Managing Principal

cc Robb Bakemeier, Bakemeier Law Firm
John W. Stephens, Esler, Stephens & Buckley, LLC

COMMENT #1 – The former Mar Com (South) property is erroneously designated in EPA's Proposed Plan as one of the "Properties with Known Contaminated Riverbanks," and such designation should be deleted from the Proposed Plan based upon: (a) Oregon Department of Environmental Quality's (DEQ's) Source Control Decision and No Further Action Determination, both dated November 30, 2011; (b), DEQ's March 25, 2016 Portland Harbor Upland Source Control Summary Report identifying the Mar Com (South) property as a "low priority" for all identified pathways including bank erosion; and (c) site sampling data.

Supporting Details to Comment #1: A Source Control Decision (SCD) issued to the EPA for the Former Mar Com (South) property by the DEQ on November 30, 2011 states that "site information and source control evaluation indicate shallow groundwater, stormwater, and upland erodible soil (via the overland runoff pathway) contamination at the upland portion of the Site do not pose a significant source control threat to the Willamette River." Additionally, on November 30, 2011, a No Further Action (NFA) Determination was issued by DEQ for the Former Mar Com (South) Uplands property, stating that "DEQ determined that no further action is required to address environmental contamination in the uplands portion of the former Mar Com South Site...DEQ concludes that based on the information presented to date, residual groundwater and soil contamination related to the former Mar Com South Site does not pose a significant risk to the public health or the environment."

In DEQ's March 2016 Portland Harbor Upland Source Control Summary Report, Mar Com (North) and Mar Com (South) (ECSI# 4797 and 2350, respectively) are identified as low priorities for all identified pathways including bank erosion. Additionally, bank erosion is identified as "Excluded" from Source Control Measures Status. Both sites have received SCDs and NFAs and have a low recontamination potential according to the DEQ.

One test pit (TP-35) located approximately 100 feet from the ordinary high water line (17 feet amsl) and at an elevation of approximately 30 feet amsl had concentrations of PCBs above Alternative F RALs. These concentrations were located at a depth of 8 feet and 12.5 feet below surface. This depth and distance from the shoreline has no potential to become exposed river bank and this one, in-land location does not warrant labeling the entire shoreline of the former Mar Com parcel as "Properties with Known Contaminated Riverbanks."

One surface sediment sample (SS-5) located below the ordinary high water line had a concentration of PCBs above the Alternative F RALs. This sample was taken from the top 6 inches. In general, most samples collected during this shoreline sampling event and core samples taken throughout the Site-wide investigation indicate that lower concentrations of PCBs are found at depths greater than six inches. One surficial sediment sampling location does not warrant labeling the entire shoreline of the former Mar Com parcel as "Properties with Known Contaminated Riverbanks."

EPA's Proposed Plan should remove the "Properties with Known Contaminated Riverbanks" labeling of the former Mar Com (South) property. This erroneous designation is contrary to DEQ's determinations, as set forth in DEQ's SCD, NFA, and Portland Harbor Upland Source Control Summary Report. This erroneous designation is not based on DEQ documentation or consultation, nor is it based on the upland or shoreline sampling data.

DEQ "is designated Lead Agency" for the Upland Portion of the Portland Harbor Superfund Site, pursuant to the Memorandum of Understanding among EPA, DEQ, and other governmental parties. Absent some new substantial evidence about the former Mar Com (South) riverbank (which does not exist), EPA must defer to DEQ's determinations. EPA has no basis for contradicting DEQ's determinations and effectively disregarding DEQ's Lead Agency role through EPA's use of the erroneous designation for the former Mar Com (South) property. EPA's Proposed Plan should be revised to be consistent with DEQ's determinations by removing the erroneous designation.

COMMENT #2 – EPA's Proposed Plan arbitrarily, capriciously, and unfairly labels the Sediment Decision Unit (SDU) between River Mile 5.0 and River Mile 6.0 East as the "Mar Com" SDU. Such designation should be revised to "River Mile 5.5 East" to be consistent with other SDU designations that are based upon geographic locations.

Supporting Details for Comment #2: The description of SDUs in the Proposed Plan is arbitrary. Extensive sampling and removal actions have been completed at the former Mar Com (South) property. This work resulted in DEQ issuing a Source Control Decision and No Further Action determination on November 30, 2011. Additionally, much of the contaminant mass is located upstream of the former Mar Com operation. Many potential sources are identified for this river segment and upstream of this river segment including several City of Portland outfalls (OF52A, OF52, and OF50).

EPA's Proposed Plan should change the description of SDU RM5.5E to "River Mile 5.5 East" to be consistent with other SDU descriptions in Table 16 of the Proposed Plan.

COMMENT #3 – EPA's Proposed Plan is erroneously based upon speculation about RCRA Characteristic Hazardous Wastes and overestimation of metals concentrations on the shoreline of properties adjacent to River Mile 5.5 East. Such speculation and overestimation is contradicted by actual data (TCLP analyses) and should be removed from the Proposed Plan's assessment of cleanup alternatives.

Supporting Details for Comment #3: Characterization of hazardous waste is defined under 40 CFR 261.24 by TCLP analysis. 40 CFR 261.24 does not recognize the "Rule of 20." Based on the TCLP analysis from the adjacent properties, the "Rule of 20" greatly overestimates the potential for hazardous waste in river sediments. For instance, on the Mar Com (North) property, stockpile samples of waste soil and spent sandblast grit were analyzed for both total metals and TCLP metals. The total metal concentrations of the samples were such that when applying the "Rule of 20," they would exceed the TCLP hazardous waste criteria for lead. However, the same samples analyzed by TCLP methods, resulted in lead concentrations far below the hazardous waste criteria. This hazardous waste discussion and associated consideration in the cleanup alternatives should be removed. Or, select archived core samples with elevated total lead concentrations should be analyzed by TCLP methods to provide an appropriate assessment of the potential for hazardous waste concentration of lead in the river sediments.

Very few TCLP analyses were performed Site-wide (11 total) and no hazardous waste was identified under the RCRA definition in River Mile 5.0 to 6.0.

Figure 3.4-35 from the FS is labeled "Sediment Concentrations above the Characteristic Hazardous Waste Criteria for Toxicity Established through TCLP" and is inaccurate. The TCLP criteria was not used to develop this figure and it shows lead above the TCLP criteria on the former Mar Com (South) shoreline. This is not supported by the sampling data, and as such, this labeling should be removed from this figure and this figure should be corrected to show the four sampling locations where TCLP analysis identified RCRA hazardous waste concentrations.

In the Rationale for Selecting the Preferred Alternative, the Proposed Plan for cleanup of the Portland Harbor discusses the treatment and off-site disposal of materials, some of which are characterized as hazardous waste under RCRA. The Feasibility Study Report (June 2016) reviewed chemical concentrations for RCRA Characteristic Hazardous Wastes. The associated figure (Figure 3.4-35) shows an area on the shoreline of adjacent properties in River Mile 5.5 East as above TCLP Sampling Criteria for lead. As mentioned above, TCLP analyses have been performed on a limited number of samples collected on the upland site at this river mile, and when they have, they have been below the hazardous waste criteria for lead of 5 mg/L.

The current discussion of RCRA hazardous waste and associated consideration in the cleanup alternatives is an overestimation and based on speculation. This discussion should be removed or substantiated with the analysis of select archived core samples by TCLP methods.

COMMENT #4 - EPA's Proposed Plan arbitrarily and without the support of the site conditions applies different criteria to the SDU between River Mile 5.0 and River Mile 6.0 than the criteria applied to other SDUs in the Proposed Plan. EPA's manipulation of the RALs for SDU 5.5E appears to be erroneously based on the speculation about the presences and volume of Characteristic Hazardous Wastes (see Comment #3, above). EPA's criteria for determining cleanup actions (RAL selection) should be consistently and uniformly applied to all SDUs.

Supporting Details for Comment #4: EPA's rationale for selecting the preferred alternative states that some of the 192,000 cubic yards on sediment/soil that would be treated or taken off-site for disposal is characterized as hazardous waste under RCRA. As stated in Comment #3 above, the presence of this RCRA waste is unsupported.

PCBs and PAHs are identified as focused COCs for SDU 5.5E. Histograms for these COCs are included in Appendix D (Supporting Information for Alternative Development) of the FS and show that mean concentrations of these COCs between RM 5 and RM 6 are less or similar to the concentrations upstream and downstream. The manipulated RALs for SDU 5.5E cannot achieve EPA's presented risk reductions based on EPA's stated focused COCs. EPA should apply appropriate, consistent, and uniform criteria to all SDUs.